

REMARKS

This is a full and timely response to the outstanding non-final Office Action of December 27, 2007. The Examiner has required the Applicants to elect to prosecute one of four groups of claims identified in the Office Action. In response to the restriction requirement, Applicants respectfully elect to prosecute the claims of Group II, corresponding to claims 18-32 and 48-53, with traverse, as set out hereafter.

As provided in 35 U.S.C. § 121, restriction to one of two or more claimed inventions is proper only if the inventions are “independent and distinct.” In its discussion of the propriety of restrictions, MPEP § 803 further provides that if search and examination of two or more inventions can be made without “serious burden,” the Examiner must examine them on the merits even if the claims are directed to distinct or independent inventions.

Furthermore, MPEP § 808.02 specifically rejects the requirement of a restriction in the present case.

Where [] the classification is the same and the field of search is the same and there is no clear indication of separate future classification and field of search, no reasons exist for dividing among independent or related inventions.

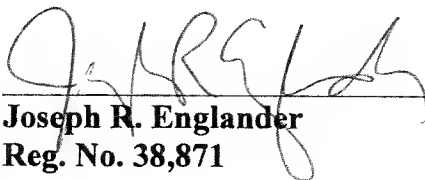
In the pending Office Action, the Examiner determined that both the inventions in Group I and Group II are classified *exactly* the same: Class 422, Subclass 186+. The inventions in Groups I and II, although not necessarily obvious in view of each other, are very similar in subject matter. In Group I, the invention is a device for the formation of advanced ionization product; and In Group II, the invention is a photoionization cell. More specifically, each pertains to a device that incorporates an advanced oxidation process. For this reason, Applicants respectfully submit that the inventions described in these claims are not “independent” as defined

in MPEP § 803 and that the restriction requirement therefore is improper as between Groups I and II. Thus, restriction is not proper and is respectfully traversed.

Furthermore, in the interest of equity and fairness, Applicants should be entitled to pursue different types of claims in the present application, particularly, apparatus claims and method claims, for the invention to fully protect the invention, because there is a different body of law pertaining to each of these different types of claims. The restriction requirement is therefore unfair to the Applicants, because it will require the Applicants to file and bear the additional cost and time delay associated with filing one or more divisional or continuing applications in order to cover each type of claim set.

For at least the foregoing reasons, Applicants respectfully traverse the restriction requirement and respectfully request the Examiner to examine the claims of Groups I and II together. Applicants expressly reserve the right to present the non-elected claims, or variants thereof, in continuing applications to be filed subsequent to the present application. Should the Examiner have any questions regarding this response, the Examiner is invited to telephone the undersigned attorney.

Respectfully submitted,


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